

**Before the
Federal Communications Commission
Washington, D.C. 20554**

| | | |
|--|---|---------------------|
| In the Matter of |) | |
| |) | |
| Special Access Rates for Price Cap Local |) | WC Docket No. 05-25 |
| Exchange Carriers |) | |
| |) | |
| AT&T Corp. Petition for Rulemaking to Reform |) | RM-10593 |
| Regulation of Incumbent Local Exchange Carrier |) | |
| Rates for Interstate Special Access Services |) | |
| |) | |

**DECLARATION OF JANET FISCHER ON BEHALF OF
GLOBAL CROSSING NORTH AMERICA, INC.**

1. My name is Janet Fischer. I am Director of Access Management Regulatory at Global Crossing North America, Inc (“Global Crossing”). My duties include tracking and managing state and federal regulatory issues that effect Global Crossing’s expenditure for access services. I have been at Global Crossing for six years and have been in the telecommunications industry for more than twenty years. I have served in various positions, including network engineering, billing, and tariff analysis, all of which have related to assessing the cost of network facilities and access from various suppliers and detailed review and research of vendor tariffs.

2. Global Crossing provides telecommunications solutions to enterprise customers over its integrated global Internet Protocol-based network that connects more than 300 cities in 30 countries worldwide. Global Crossing is heavily reliant on special access services, which are an essential input to our services.

3. The purpose of this declaration is to provide information on special access pricing under the FCC’s price cap regime and the FCC’s pricing flexibility plan, and to

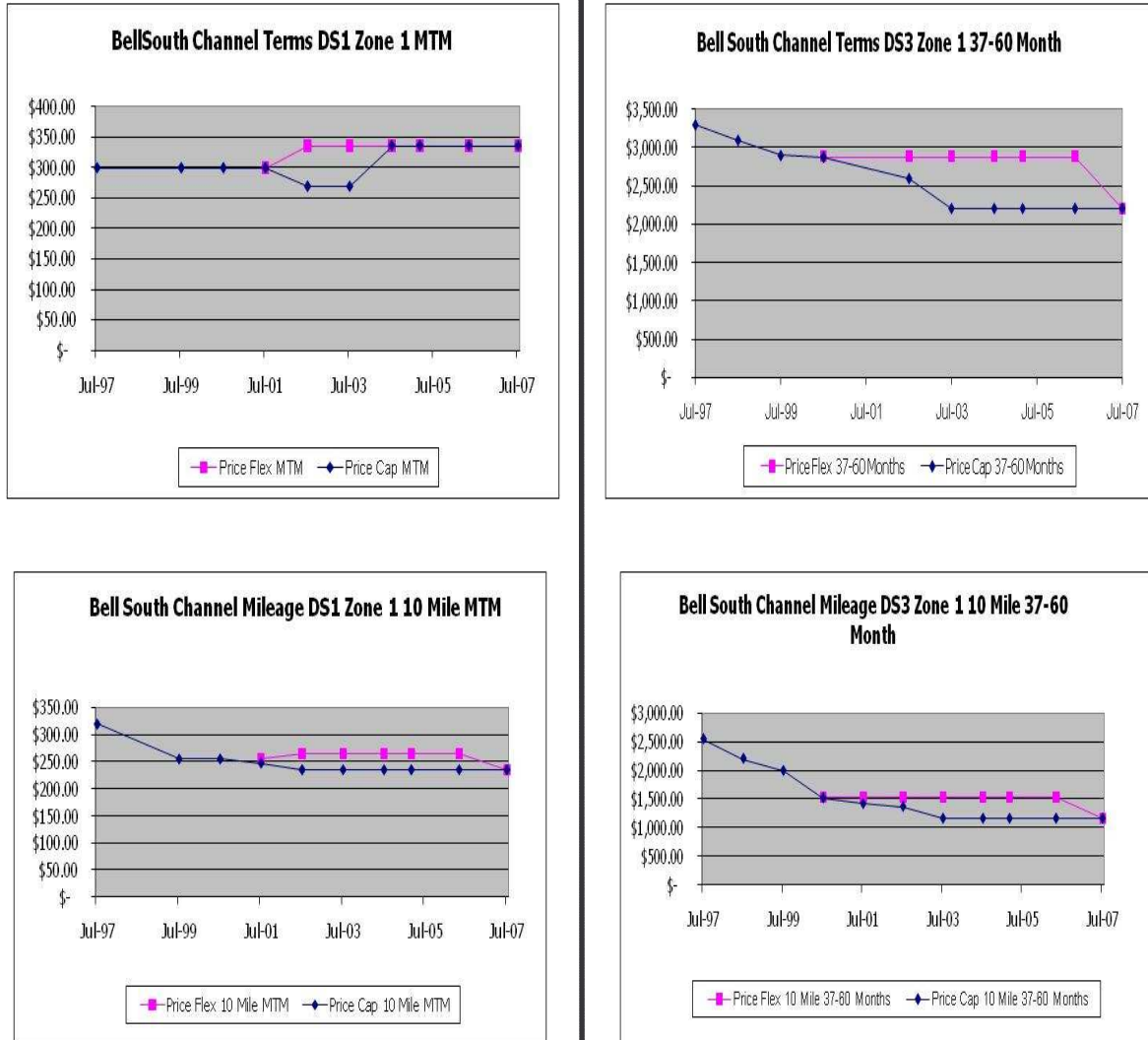
compare those rates with prices available for comparable services offered by competitive carriers over their own facilities, that is, on-net services. Given Global Crossing's heavy reliance on special access services, we carefully track pricing and have done so for years. As a major purchaser of access services, we are also familiar with prices set by competitors. The information provided in this declaration and the attached charts was prepared by me or by staff under my supervision.

4. Initially, let me state that, although competitive carriers do offer on-net services along discrete routes in many markets, as the *GAO Study* indicates, the incumbent carriers are the dominant providers of special access services. Only the incumbent carriers are able to provide service ubiquitously throughout their service territory. Competitors are able to provide service only on relatively few discrete routes or to discrete locations that have substantial telecommunications demand.

5. Tables 1 through 4, below, are a representative sample of the pricing trend for special access rates under price cap regulation versus pricing flexibility over a ten year period from July 1997 to July 2007. To prepare these graphs, we compared a snapshot of prices based on the rates in effect as of July 1 of each year. The actual pricing flexibility price may have varied during the course of the year. Tariff pages for earlier years were obtained from CCMI Telview tariff library archives. As the tables illustrate, special access rates in price flex areas either trended higher than price cap rates, or remained flat while price cap rates trended lower. The exception is for BellSouth DS1 channel termination month-to-month rates (Table 1, upper left hand graph) where BellSouth's price cap channel termination rate *increased* to the higher-level pricing flexibility rate. Tables 1 and 3 reflect AT&T's

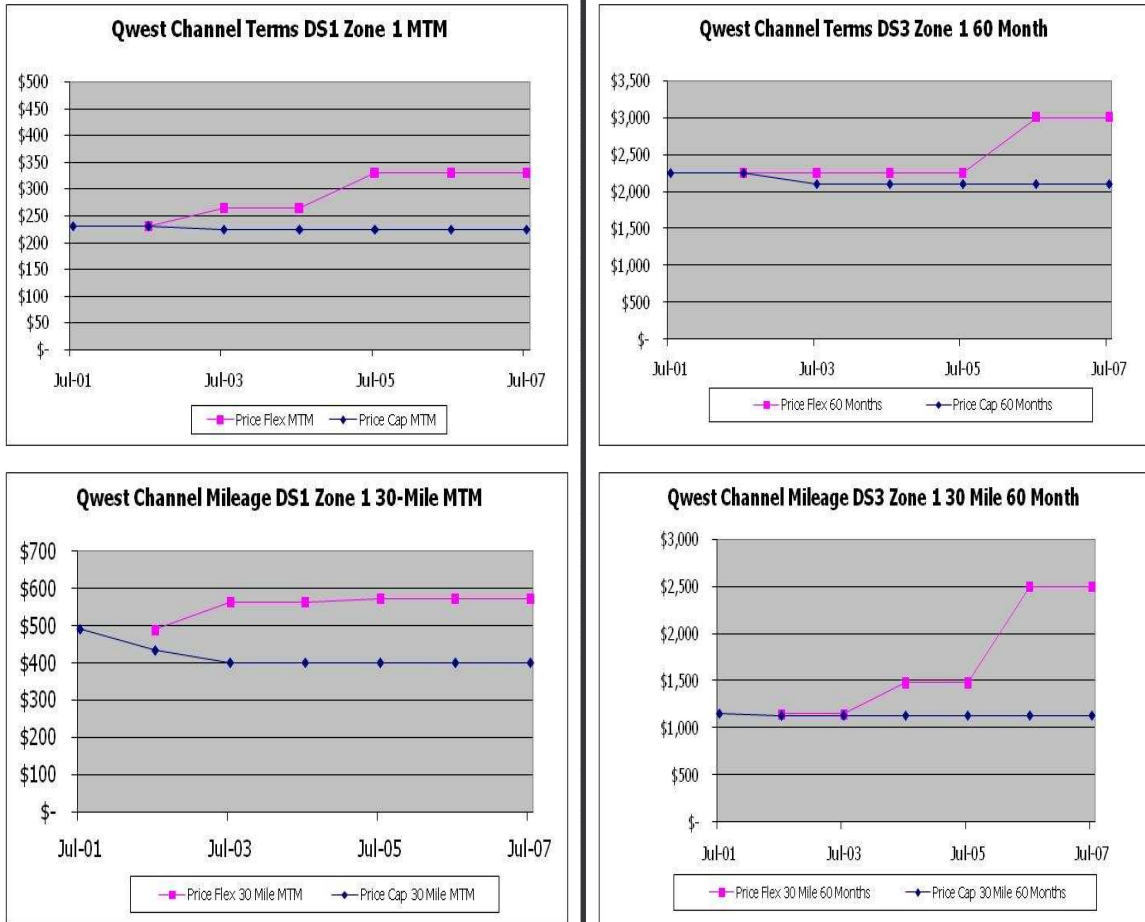
commitment to reduce pricing flexibility rates to price capped rates as a condition for approval of their acquisition of BellSouth.

Table 1
Bell South Special Access Circuits – Sample Annual Price
Points
Trended Individual Rate Elements
(Final price point reflects July 07 rate)



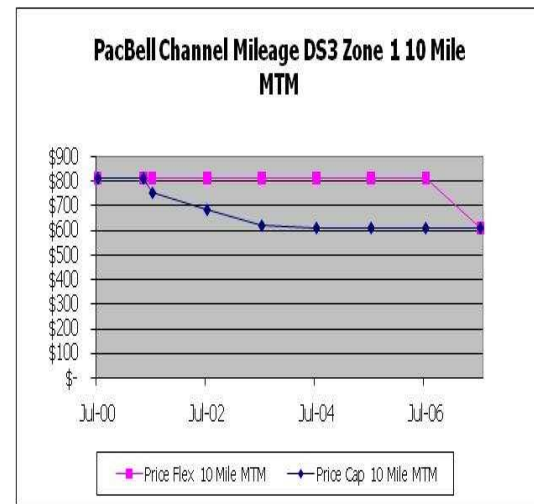
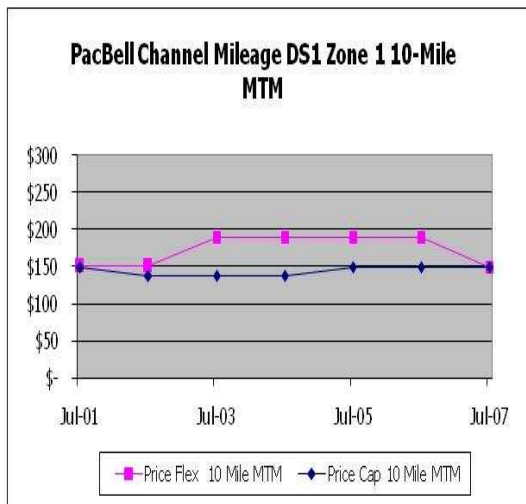
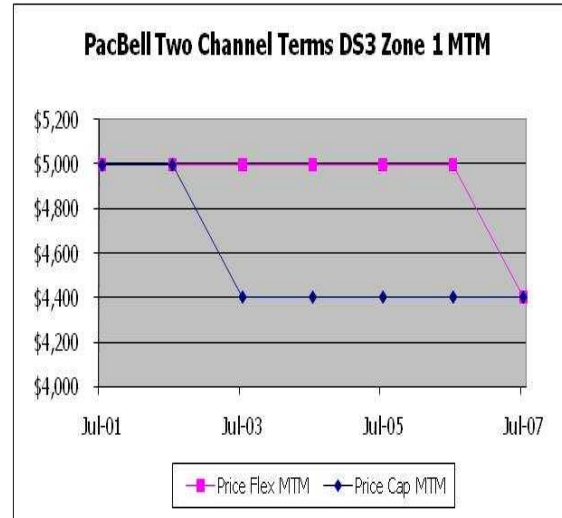
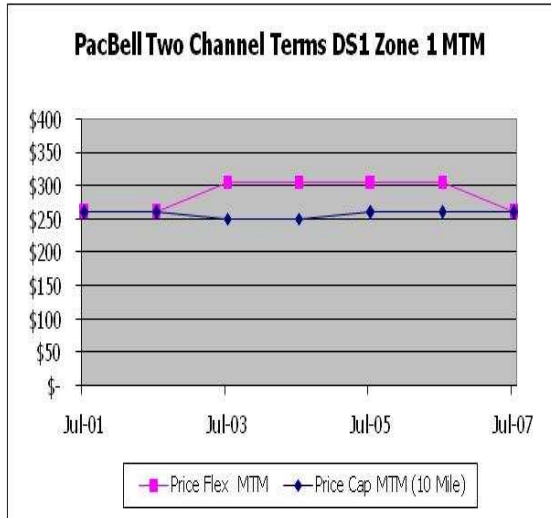
Source: FCC #1 CT DS1: 7.5.9.A, page 7-144.1(Price Cap); 23.5.2.9.A, page 23-80(Price Flex); CM DS1: 7.5.9.B.2, page 7-146(Price Cap); 23.5.2.9.B.2, page 23-163(Price Flex) FCC #1 CT DS3: 7.5.9.A.3.v, page 7-145.0.7.1(Price Cap); 23.5.2.9.A.3.v, page 23-117(Price Flex); CM DS3: 7.5.9.B.5.h, page 7-147.0.3.4(Price Cap); 23.5.2.9.B.5.h, page 23-227(Price Flex)

Table 2
Qwest Special Access Circuits – Sample Annual Price Points
Trended Individual Rate Elements
(Final price point reflects July 07 rate)



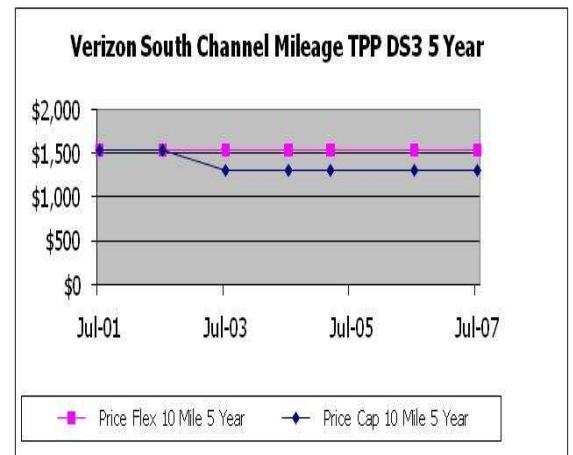
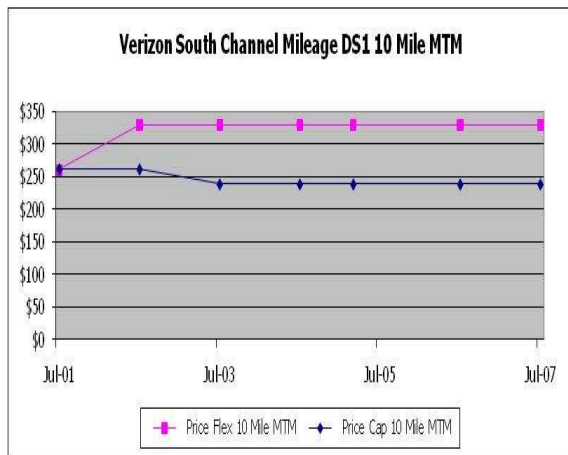
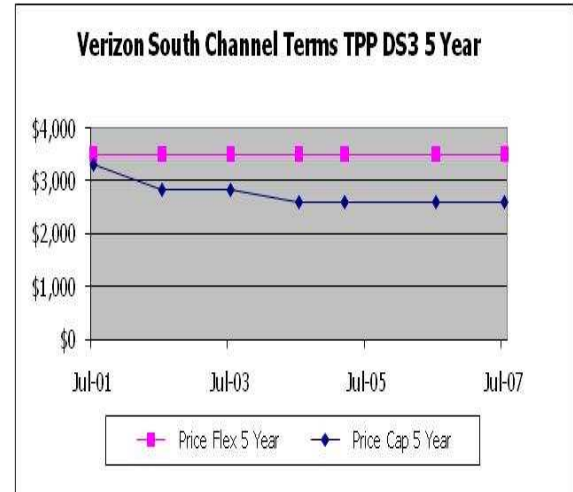
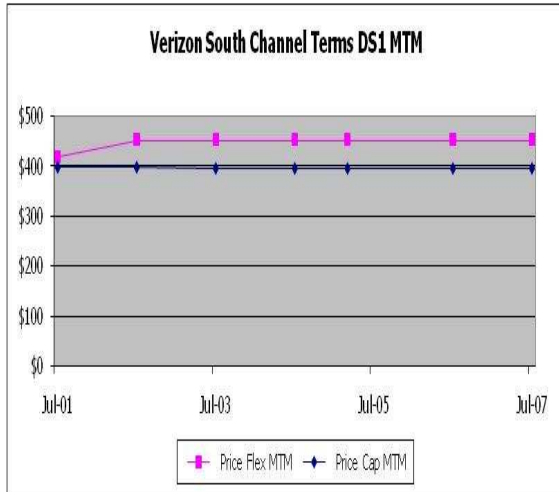
Source: FCC #1 CT DS1: 7.11.4.A.1, page 7-347(Price Cap); 17.2.11.A.1, page 17-91(Price Flex) ; CM DS1: 7.11.4.C.1.a, page 7-354.1(Price Cap); 17.2.11.C.1.a, page 17-98.1(Price Flex) FCC #1 CT DS3: 7.12.4.A.1.a, page 7-403.1(Price Cap); 17.2.12.A.1.a, page 17-123(Price Flex); CM DS3: 7.12.4.A.4.e, page 7-418(Price Cap); 17.2.12.A.4.e, page 17-141(Price Flex)

Table 3
SBC Pac Bell Special Access Circuits – Sample Annual Price Points
Trended Individual Rate Elements
(Final price point reflects July 07 rate)



Source: FCC #1 CT DS1: 7.5.9.A.1, page 7-172(Price Cap); 31.5.2.7.A.1, page 31-41(Price Flex); CM DS1 7.5.9.B.1, page 7-179(Price Cap); 31.5.2.7.B.1, page 31-48(Price Flex) FCC #1 CT DS3: 7.5.9.A.3, page 7-175(Price Cap); 31.5.2.7.A.3, page 31-44(Price Flex); CM DS3 7.5.9.B.4, page 7-180(Price Cap); 31.5.2.7.B.2, page 31-48(Price Flex)

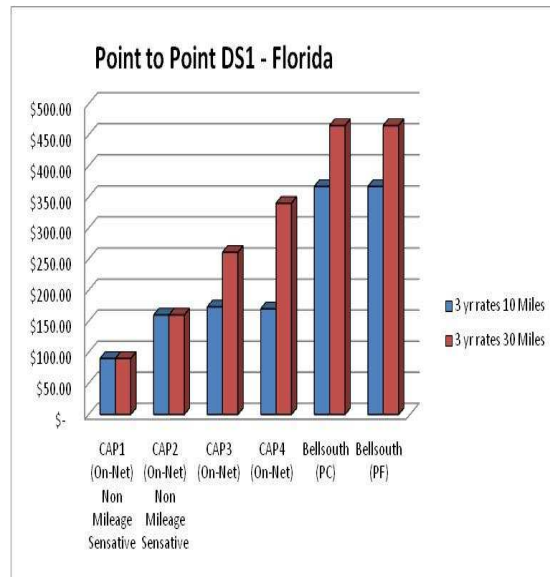
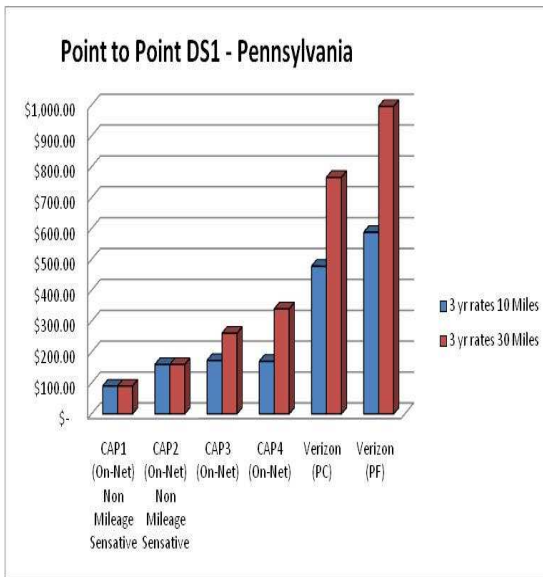
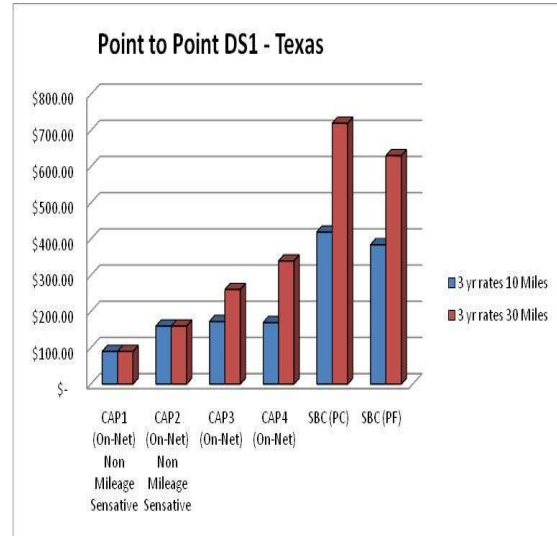
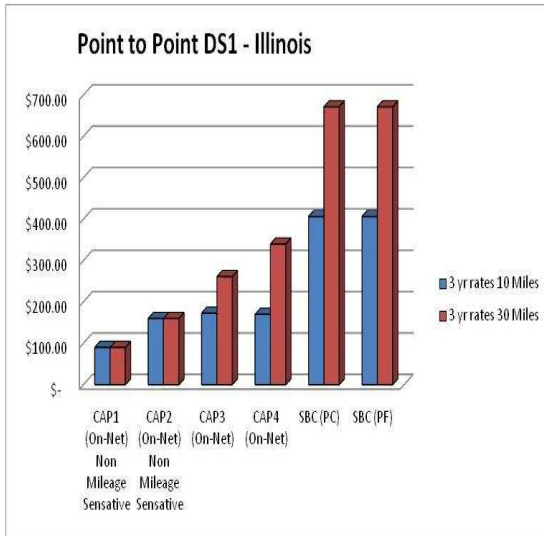
Table 4
Verizon Special Access Circuits – Sample Annual Price Points
Trended Individual Rate Elements
(Final price point reflects July 07 rate)



Source: FCC #1 CT DS1: 7.5.9.A.1, page 7-250(Price Cap); 7.5.9.A.1, page 7-250(Price Flex); CM DS1: 7.5.9.B.1.b, page 7-264(Price Cap); 7.5.9.B.1.b, page 264(Price Flex) FCC #1 CT DS3*: 7.5.9.A.1.a, page 7-254(Price Cap); 7.5.9.A.1.a, page 7-256.1(Price Flex); CM DS3 7.5.9.B.1.e, page 7-264(Price Cap); 7.5.9.B.1.e, page 7-264(Price Flex)

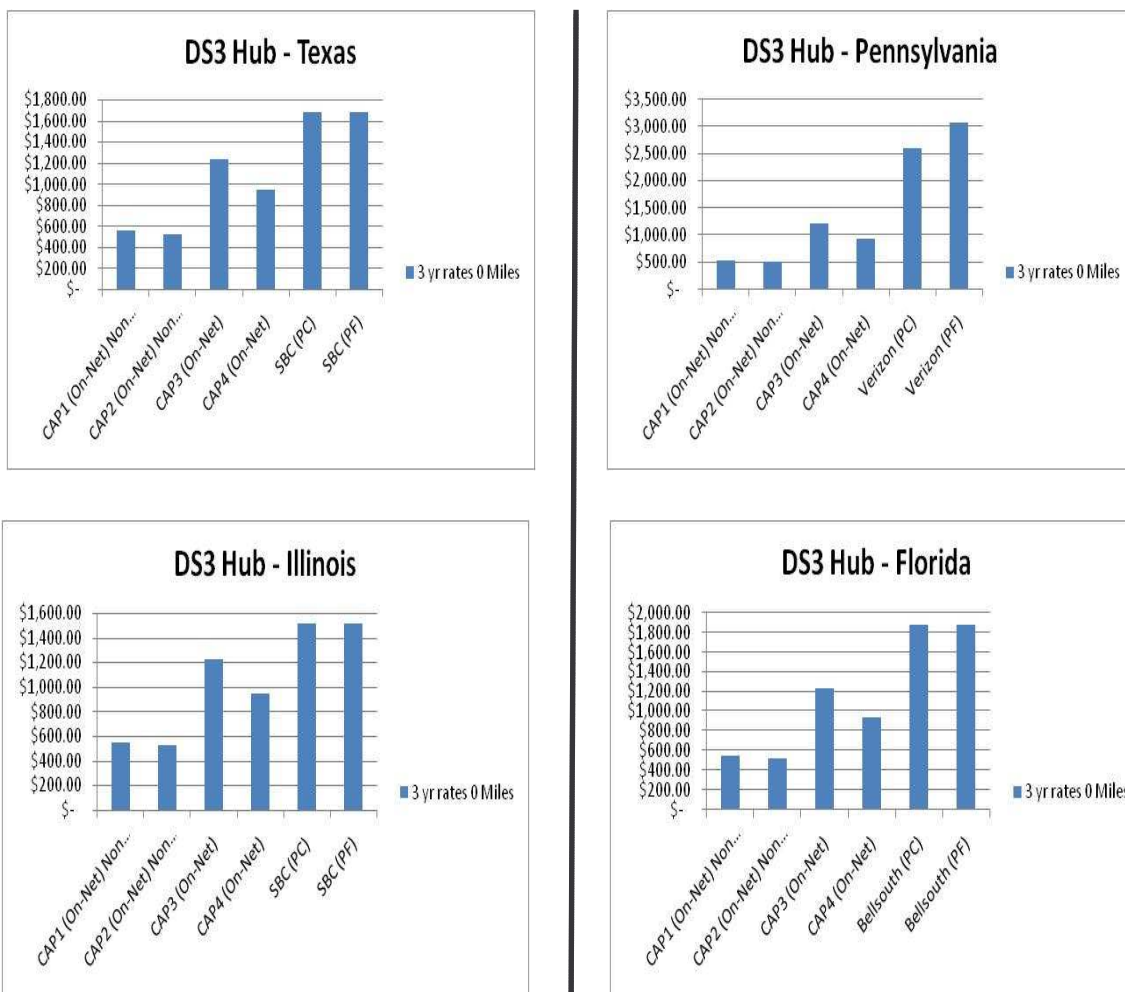
6. Tables 5 and 6, below, demonstrate that incumbent carriers have not used their pricing flexibility to meet competitive challenges. Tables 5 and 6 compare available special access prices, both under price caps and pricing flexibility, with prices offered to Global Crossing by four alternative providers utilized by Global Crossing. In all cases, only on-net or Type I services from the competitors were compared so as to allow for an “apples-to-apples” comparison. Table 5 compares end-to-end DS1 circuits of ten or thirty miles. Table 6 compares pricing for DS3 entrance facilities and a DS3 transport facility from the ILEC hub to a remote ILEC wire center, that is, an entrance facility plus interoffice mileage. In all instances rates for a three-year term were compared. The graphs show that price cap and pricing flexibility rates are typically two to three times higher than competitive carriers, and the pricing flexibility price is higher than the price cap price for the same facility. Despite the substantially lower prices charged by competitors as demonstrated on the attached charts, carriers have not used pricing flexibility to reduce their special access rates in response.

Table 5
Sample Point to Point Circuits (DS-1) ordered CAP end to end
(CAP rates reflect on-net only)



Source: Ameritech FCC #2 CT DS1: 7.5.9.B.1, page 411(PC); 21.5.2.7.B.1, page 755(PF); CM DS1 7.5.9.B.3-4, pages 411.2-4(PC); 21.5.2.7.B.3-4, pages 757-759(PF) SWBT FCC #73 CT DS1: 7.3.10.F.39.a, page 7-209.224 (PC); 39.5.2.7.M.1, page 39-110(PF); CM DS1 7.3.10.F.39.b, page 7-209.226(PC); 39.5.2.7.M.2, page 39-112(PF) Verizon FCC #1 CT DS1: 7.5.16.B, page 7-276 (PC); 7.5.16.B, page 7-276(PF); CM DS1 7.5.16.B, page 276.1(PC); 7.5.16.B, page 276.1(PF) Bellsouth FCC #1 CT DS1: 7.5.9.A.1, page 7-144.1(PC); 23.5.2.9.A.1, page 23-80(PF); CM DS1 7.5.9.B.2, page 7-146(PC); 23.5.2.9.B.2, page 23-163(PF)

Table 6
Sample Point to Point Circuits (DS3)
Ordered CAP end to end RBOC end to end
(CAP rates reflect on-net only)



Source: Ameritech FCC #2 CT DS3: 7.5.9.C.1.a, page 413.2.6(PC); 21.5.2.7.C.1.a, page 779(PF); DS3/DS1 Mux 7.5.9.C.4.a., page 414(PC); 21.5.2.7.C.4.a, page 785(PF) SWBT FCC #73 CT DS3: 20.5.1.M, page 20-45 (PC); 39.5.2.12.A, page 39-147(PF); DS3/DS1 Mux 20.5.7.A.13, page 20-47.32(PC); 39.5.2.12.G.1.j, page 39-173(PF) Verizon FCC #1 CT DS3: 7.5.9.A.1.a, page 7-254 (PC); 7.5.9.A.1.a, page 7-256.1(PF); DS3/DS1 Mux 7.5.9.C.1.b, page 7-265(PC); 7.5.9.C.1.b, page 7-265(PF) Bellsouth FCC #1 CT DS3: 7.5.9.A.3, page 7-145.0.7.1(PC); 23.5.2.9.A.3, page 23-117(PF); DS3/DS1 Mux 6.8.1.g.6.a.1, page 6-159.1.1(PC); 23.5.1.c.2.a.1, page 23-22(PF)

7. As a condition for approval of the acquisition of AT&T by SBC, SBC agreed to “freeze” rates for special access services. Specifically, -

“SBC/AT&T shall not increase the rates in SBC’s interstate tariffs, including contract tariffs, for special access services that SBC provides in its in-region territory and that are set forth in tariffs on file at the Commission on the Merger Closing Date. This condition shall terminate thirty months from the Merger Closing Date.” (AT&T Order, Appendix F, p. 124)

AT&T made the following additional commitment in order to secure approval of its subsequent acquisition of BellSouth.

“In areas within the AT&T/BellSouth in-region territory where an AT&T/BellSouth ILEC has obtained Phase II pricing flexibility for price cap services (“Phase II areas”), such ILEC will offer DS1 and DS3 channel termination services, DS1 and DS3 mileage services, and Ethernet services, that currently are offered pursuant to the Phase II Pricing Flexibility Provisions of its special access tariffs, at rates that are no higher than, and on the same terms and conditions as, its tariffed rates, terms, and conditions as of the Merger Closing Date for such services in areas within its in-region territory where it has not obtained Phase II pricing flexibility. In Phase II areas, AT&T/BellSouth also will reduce by 15% the rates in its interstate tariffs as of the Merger Closing Date for Ethernet services that are not at that time subject to price cap regulation.” (Appendix F, p. 151-152 footnotes omitted)

As a major consumer of special access services, Global Crossing naturally benefited from these commitments since AT&T’s special access pricing in pricing flexibility areas was generally higher than in price cap areas. However, actions by AT&T since it received approval of its acquisition of BellSouth have succeeded in off-setting over sixty percent (60%) of the savings Global Crossing stood to realize. The following table illustrates the activities.

| Date | April 5, 2007 | May 26, 2007 | July 1, 2007 |
|--------|--|---|--|
| Action | AT&T reduces pricing flexibility rates to price cap levels for special access services | AT&T increases monthly recurring charges for entrance facilities and multiplexing under its switched access tariff, essentially increasing pricing flexibility rates to the level of price cap rates where such rates were lower than the price caps. | AT&T increases price cap monthly recurring charges for entrance facilities, direct transport, trunk ports, and multiplexing under its switched access tariff as part of its annual access filing |

8. As AT&T's actions demonstrate, efforts by regulators to force rate reductions often fail to achieve their desired result or are easily obviated by subsequent actions. Regulators succeed in reducing rates in one area only to see rates increase in another. In this case, even though AT&T committed to freeze or reduce rates for "special access," it nonetheless raised rates for "entrance facilities" which are equivalent to special access services (a dedicated, point-to-point circuit typically sold in units of DS1, DS3, etc.) only they are sold under AT&T's switched access tariff and not their special access tariff.

9. Global Crossing believes the commercial arbitration process it has proposed can better prevent this gaming of the process because the arbitrated (or negotiated) contract would better define the universe of circuits subject to the pricing in the contract.

10. This concludes my declaration.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 7, 2007.


Janet Fischer